

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

ABNER R. NICHOLSON

Petitioner

v.

GERALD BRANKER

Respondent

Judgment in a Civil Case

Case Number: 5:06-HC-2148-H

Decision by Court.

This action came before the Honorable Malcolm J. Howard, Senior United States District Judge, for consideration after the evidentiary hearing of respondent's motion for summary judgment.

IT IS ORDERED AND ADJUDGED that the court finds that petitioner is mentally retarded and has been sentenced to death in violation of his constitutional rights. A writ of habeas corpus vacating his death sentences shall issue, and the State of North Carolina shall sentence petitioner to life imprisonment on each count of first-degree murder. As to all other claims raised in the petition, Nicholson fails to establish he is entitled to a writ of habeas corpus, and respondent's motion for summary judgment is granted as to those claims.

This Judgment Filed and Entered on September 20, 2010, with service on:

James B. Maxwell (via U.S. Mail)

Kenneth J. Rose (via U.S. Mail)

Mark J. Kleinschmidt (via U.S. Mail)

Valerie B. SpaldingDelForge (via CM/ECF Notice of Electronic Filing)

September 20, 2010

/s/ Dennis P. Iavarone

Clerk

Raleigh, North Carolina